

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JESUS VALDEZ BERMUDEZ,)	
)	
Petitioner,)	No C 07-2799 VRW (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
ALBERTO GONZALES, et al,)	(Doc # 2)
)	
Respondent(s).)	

Petitioner, an alien detained on behalf of the Immigration and Naturalization Service ("INS") at the Kern County Correctional Facility in Bakersfield, California, has filed a pro se petition for a writ of habeas corpus under 28 USC § 2241 challenging his continued detention pending deportation.

Petitioner alleges that he was ordered deported from the United States by an Immigration Judge and that said order became final when the Board of Immigration Appeals affirmed it on February 9, 2007. Petitioner claims his continued detention pending deportation is unlawful because it has been more than 90 days since the order of removal became final and there is no indication that his country, the Philippines, will acquiesce to repatriation in the foreseeable future.

1 Unless special circumstances exist, an alien ordered removed whose
2 removal is not reasonably foreseeable may not be detained indefinitely, but only
3 for "a period reasonably necessary to secure removal." Zadvydas v Davis, 533
4 US 678, 699 (2001). Detention for six months is "presumptively reasonable,"
5 however. *Id* at 701. After six months, a due process analysis and remedy follow:

6 If, after 6 months, the alien makes a showing that there is "no
7 significant likelihood of removal in the reasonably foreseeable
8 future" then the government must establish such a likelihood, or the
existence of special circumstances, or the alien must be released
from custody.

9 Kholesouvan v Morones, 386 F3d 1298, 1300 (9th Cir 2004) (citing Zadvydas,
10 533 US at 696, 701).

11 The instant petition is DISMISSED without prejudice to refile if
12 petitioner's detention pending deportation exceeds six months.

13 The clerk shall enter judgment in accordance with this order, terminate all
14 pending motions (see, e.g., doc # 2) as moot, and close the file. No fee is due.

15 SO ORDERED.

16 

17 VAUGHN R WALKER
18 United States District Chief Judge
19
20
21
22
23
24
25
26
27
28